

## The complaint

Mr H complains through a Claims Management Company (“CMC”), that Zopa Bank Limited (“Zopa”) lent to him irresponsibly. Mr H further says Zopa failed to conduct proportionate checks prior to approving his personal loan and the lending was unaffordable.

For ease of reference, I’ve written as if we’ve dealt directly with Mr H as opposed to the CMC representing him.

## What happened

Mr H applied for a personal loan with Zopa on 15 July 2018 for £4,000 which was approved. The loan was to be repaid over 30 months with monthly instalments of £191.02. Mr H settled the loan early on 6 November 2019.

Following Mr H’s complaint, Zopa wrote to him and explained it wasn’t upholding the complaint. Unhappy with this response, Mr H referred the complaint to us.

Our investigator upheld Mr H’s complaint. They said that Zopa should have done more extensive checks before approving Mr H’s loan. This was because Mr H was utilising a high level of credit on his existing credit cards, and he was using one of those credit cards to take cash advances. The investigator’s view was that had further checks been conducted, Zopa would have discovered Mr H was regularly using an overdraft and was gambling at the time. Our investigator concluded that Zopa should pay back the interest and charges that Mr H paid.

Mr H agreed with the investigator’s opinion. Zopa didn’t agree. It says Mr H passed their checks with no concerns and as a result, it did not require any additional evidence from him such as bank statements.

Subsequently, the investigator issued a second opinion explaining the reasons why these comments hadn’t changed her mind about the outcome.

As Zopa didn’t agree, the case has been passed to me to make a decision.

On 9 July 2024 I issued a provisional decision on this case. In summary I said:

*I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint, but having done so I’ve reached a different conclusion from that of our investigator.*

*I’m aware that I’ve summarised this complaint above in less detail than it may merit. No discourtesy is intended by this. Instead, I’ve focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.*

*If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.*

*Lastly, I would add that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities.*

*We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Mr H's complaint.*

*Having carefully thought about everything I've been provided with, I'm not upholding Mr H's complaint. I'd like to explain why in a little more detail.*

*Mr H was approved a £4,000 loan with an APR of 34.4%. The total cost of the loan was £5,730.57 which included a £460 borrowing fee and interest of £1,270.57.*

*As part of Mr H's application, he declared he was employed full time as a production supervisor and was receiving a gross annual income of £24,250. Mr H also declared that he was not receiving any additional income at the time and the purpose of the loan was "other". He also declared that he was renting and paying £500 a month for the same.*

*Zopa says Mr H's net monthly income of £1,656 was verified using a credit reference agency. Zopa also carried out a credit check and could see Mr H had unsecured debt amounting to £8,014. This was made up of four credit cards and an overdraft.*

*The credit checks also revealed Mr H held credit cards with credit limits totalling £8,800. He was using £7,739 of these credit limits. Mr H also held an overdraft with a limit of £350 and his outstanding balance on his overdraft at the time of the application was £275. The credit checks showed Mr H was up to date on his repayments.*

*Zopa calculated that Mr H was paying £400.70 towards his credit commitments based on repayments of 5%. Zopa Bank deducted this figure along with Mr H's declared rent of £500 from his monthly income of £1,655.91. After doing so, Zopa noted that Mr H was left with a disposable monthly income of £755.21 of which to meet his repayments of £191.02 and his other living costs.*

*I've thought about our investigator's reasons for concluding that Zopa did not complete proportionate checks. She specifically said that Mr H was utilising a large portion of his credit card limits, and after reviewing Mr H's credit file, which Mr H has provided, she thought Zopa should have seen that he was using one of the credit cards in order to withdraw cash.*

*I think Zopa's checks ought to have gone further but for different reasons to those noted by the investigator. I say this because Zopa was not aware from the credit check results that it received that Mr H was withdrawing cash on one of his credit cards. The credit check results did not show this information and so, it would not have reasonably known this.*

*Furthermore, I can't conclude that Mr H's utilisation on his four credit cards was enough to warrant additional checks from Zopa. The credit check results revealed no signs that Mr H was experiencing financial difficulties managing his existing credit obligations.*

*But I have also considered that Zopa says Mr H was left with a disposable monthly income of around £755.21 after its checks, and out of this disposable income he was expected to repay £191.02 each month for this loan. So, in fact, Mr H had a disposable monthly income of more like £564.19 of which to meet his normal monthly living costs. Mr H had told Zopa*

*that he was renting, and so, it's likely that he would have had other costs associated to his rent as well as food and potentially travel.*

*As a result, I think proportionate checks would have extended to Zopa asking Mr H about his living costs to get a better idea as to whether he could afford the repayments as well as sustain them over the 30-month term. I don't think Zopa's checks needed to go as far as verifying the information Mr H gave to it, such as by providing his bank statements, but I think Zopa should have reached out to Mr H to ask questions about his actual living costs.*

*In my view, Zopa's checks weren't proportionate at the time. So, I've gone on to consider what Mr H would have likely told Zopa had it asked him about his living costs at the time of the application. I have used copies of Mr H's bank statements in order to determine this information as his bank statements give a more accurate reflection of what his finances were like at the time of this lending.*

*Looking at Mr H's bank statements in the period of three months prior to him taking out this loan, I can see Mr H was paying £500 to another party, so this was likely his rent. When considering Mr H's normal monthly living costs, I can see he had some regular direct debits coming out of his account which included to the DVLA, TV license and car insurance.*

*Mr H also had some costs for petrol, an account fee, a mobile phone as well as some occasional costs for food. So, I think it's likely Mr H would have declared these expenses as part of his living costs and from what I can see, he was paying around £347 towards these expenses. So, had Zopa asked Mr H about his living costs at the time of the application, I think it's likely that this would have been recorded as around £347.*

*As a result, I think Zopa would have likely recorded Mr H's total expenditure as £1,247.70. This would have included £500 for rent as Mr H declared, £400.70 for his credit commitments as Zopa found out and £347 for his living costs. This would have left Mr H with a monthly disposable income of £408. After deducting the loan repayments for this loan, this would have left Mr H would a net disposable monthly income of around £217.*

*In my view, had Zopa asked about Mr H's living costs, the loan repayments would have appeared affordable. So, I'd not have expected Zopa to have been prompted to ask for copy bank statements as I think that would have been disproportionate. I acknowledge that our investigator noted that Mr H was using an overdraft and there was evidence of gambling transactions at the time. But I don't think Zopa's checks needed to go as far as verifying Mr H's finances, so Zopa wouldn't have seen any transactions that may appear on his bank statements.*

*My provisional decision is I don't uphold Mr H's complaint. I appreciate that Mr H will be disappointed with this. But having considered everything that both parties have said and submitted, I'm simply not persuaded, in the particular circumstances of this case, that Zopa made an unfair lending decision.*

*Did Zopa act unfairly in any other way*

*I've also considered whether Zopa acted unfairly or unreasonably in any other way, including whether the relationship between Mr H and Zopa might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Zopa lent irresponsibly to Mr H or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.*

Mr H disagreed with my provisional decision but provided no new evidence to consider. Zopa told us it had nothing further to add.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I haven't any new evidence to consider from either Zopa or Mr H, I see no reason to depart from my provisional findings and I now confirm them as final.

### **My final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 September 2024.

Paul Hamber  
**Ombudsman**